

Introduced by Senator Ortiz

February 3, 2004

An act to add Article 21 (commencing with Section 114500) to Chapter 4 of Part 7 of Division 104 of the Health and Safety Code, relating to restaurants.

LEGISLATIVE COUNSEL'S DIGEST

SB 1171, as introduced, Ortiz. Food establishments: nutritional information.

The California Uniform Retail Food Facilities Law (CURFFL) provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Health Services. Under existing law local health agencies are primarily responsible for enforcing CURFFL. A violation of any of these provisions is punishable as a misdemeanor.

This bill would require each food establishment, as defined, in the state that is part of a large chain, as defined, to include calorie information on menu boards and to include in printed menus the total number of calories, grams of saturated plus transfat, and milligrams of sodium per serving. The bill would provide that a food establishment would be in violation of the act and guilty of an infraction only if it knowingly or negligently fails to comply with these requirements. The bill would provide for commencement of enforcement of its provisions beginning on January 1, 2006. By creating an infraction and adding new a local enforcement duty, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Research continues to reveal the strong link between diet
4 and health, and that diet-related diseases start early in life.

5 (b) Increased caloric intake is a key factor contributing to the
6 alarming increase in obesity in the United States. According to the
7 federal Centers for Disease Control and Prevention, two-thirds of
8 American adults are overweight or obese, and the rates of obesity
9 in children and teens have tripled since 1980. Obesity increases the
10 risk of diabetes, heart disease, stroke, and other health problems.
11 Each year obesity costs families, businesses, and governments
12 \$117 billion.

13 (c) Excess saturated fat intake is a major risk factor for heart
14 disease, which is the leading cause of death in the United States.
15 While it is often thought to primarily affect men and older people,
16 cardiovascular disease is the leading killer of women and kills
17 61,000 people between the ages of 45 and 64 years each year. Heart
18 disease is also a leading cause of disability among working adults
19 and its impact on the national economy is significant, estimated in
20 2003 to total \$352 billion nationally and \$45 million in California
21 in health care expenditures and lost productivity.

22 (d) Increased sodium intake is associated with increased risk of
23 high blood pressure, or hypertension, a condition that can lead to
24 cardiovascular disease, especially stroke. The proportion of



1 Americans with high blood pressure is 45 percent at age 50 years,
2 60 percent at age 60 years, and over 70 percent at age 70 years.

3 (e) While nutrition labeling is currently required on most
4 packaged foods, this information is required only for restaurant
5 foods for which nutrient content or health claims are made.

6 (f) Many restaurants already obtain nutritional analysis of their
7 standard menu items and some make this information available to
8 consumers via Web sites, wall posters, and other formats.

9 (g) Three-quarters of American adults report using food labels
10 on packaged foods, which are required by the federal Nutrition
11 Labeling and Education Act of 1990. Using food labels is
12 associated with eating more healthful diets, and approximately
13 one-half (48 percent) of people report that the nutrition
14 information on food labels has caused them to change their minds
15 about buying a food product.

16 (h) Health experts generally agree that obesity prevention
17 requires both maintaining a healthy diet and regular physical
18 activity. Many children spend excessive amounts of time engaged
19 in sedentary activities, maintain unhealthy diets, and, at the same
20 time, lack sufficient amounts of regular physical activity, all of
21 which has a negative impact on their health and weight.

22 (i) According to the Youth Risk Behavior Survey (YRBS), the
23 majority of children of all ages in the United States do not get
24 enough physical activity, and one-third of these children are
25 considered physically inactive. The YRBS also found that only 52
26 percent of students in the United States were enrolled in a physical
27 education class, and only 32 percent attended a physical education
28 class daily. Research done by the California Center for Public
29 Health Advocacy found that 39.6 percent of children in California
30 are unfit.

31 (j) It is the intent of the Legislature, in adding Article 21
32 (commencing with Section 114500) to Chapter 4 of Part 7 of
33 Division 104 of the Health and Safety Code, that more food
34 establishments be required to provide nutritional information on
35 their prepared food items so that customers can more fully
36 understand the nutritional value of the foods that they consume.
37 The Legislature does not intend, in adopting that article, to
38 increase the number of lawsuits brought against restaurants.
39 Furthermore, nothing in the act adding this section is intended to

1 decrease the duties applicable to food establishments under
2 existing law.

3 SEC. 2. Article 21 (commencing with Section 114500) is
4 added to Chapter 4 of Part 7 of Division 104 of the Health and
5 Safety Code, to read:

6
7 Article 21. Food Establishment Nutrition
8

9 114500. (a) Each food establishment in this state that is part
10 of a large chain shall make nutritional information available to
11 customers on all standard menu items sold at the food
12 establishment. The food establishment shall comply with this
13 requirement by including calorie information on menu boards and
14 by including the total number of calories, grams of saturated plus
15 transfat, and milligrams of sodium per serving in printed menus.

16 (b) Subdivision (a) does not apply to items that are on the menu
17 for less than six months.

18 (c) The nutritional information may include a disclaimer that
19 acknowledges that there may be variations in nutritional content
20 across servings, based on variations in overall size and quantities
21 of ingredients, and based on special ordering.

22 (d) The duty of an enforcement officer to enforce this section
23 shall be limited to conducting an inspection in the course of regular
24 health inspections of food facilities, and verifying that the food
25 establishment has made a good faith effort to comply with this
26 article.

27 (e) A food establishment that violates this section is guilty of
28 an infraction, punishable by a fine of not less than twenty-five
29 dollars (\$25) or more than two hundred fifty dollars (\$250) for
30 each violation, which may be assessed by an enforcement officer.
31 Notwithstanding Section 113935, a violation of this section is not
32 a misdemeanor.

33 (f) (1) A food establishment shall be in violation of this article
34 only if it knowingly or negligently fails to comply with the
35 requirements of this section.

36 (2) An individual franchisee is not in violation of this article if
37 the franchisee's parent corporation has failed to provide the
38 necessary materials required by this article.

39 (g) Violations of this article shall not be enforced until January
40 1, 2006.

(h) For the purposes of this section, the following definitions apply:

(1) “Food establishment” means any establishment used or operated for the purpose of preparing and serving food at the retail level, not including a mobile food facility, satellite food distribution facility, temporary food facility, open-air barbecue, certified farmers’ market, stationary mobile food preparation unit, or mobile food preparation unit.

(2) “Large chain” means a chain of restaurants that includes 10 or more franchises or restaurants in this state.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.